

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
TOKYO ELECTRON ARIZONA, INC.,

Plaintiff(s),

-against-

DISCREET INDUSTRIES CORPORATION,  
et al.,

Defendant(s).

-----X  
**WILLIAM D. WALL, United States Magistrate Judge:**

**REPORT AND  
RECOMMENDATION**

CV 01-3245 (DRH) (WDW)

In Judge Hurley's November 16, 2004 order denying, *inter alia*, defense trial counsel Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein's motion to withdraw, he referred to the undersigned the question of whether Carella Byrne's continued presence is required for the asset-discovery process. To the extent that the process is still ongoing, the undersigned respectfully recommends that Carella, Byrne, Bain, Gilfillan Cecchi, Stewart & Olstein should remain in the case, for the same reasons that led Judge Hurley to deny their motion as to the other issues in the case, that is, to prevent any further delays in this matter. As to local counsel Thomas Gandolfo, however, the undersigned sees no reason for his continued representation.

**OBJECTIONS**

A copy of the Report and Recommendation is being sent by the Court to all parties. Any objections to this Report and Recommendation must be filed with the Clerk of the Court with a courtesy copy to the undersigned within 10 days of service. Failure to file objections within this period waives the right to appeal the District Court's Order. *See* 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York  
February 2, 2005

s/ William D. Wall  
WILLIAM D. WALL  
United States Magistrate Judge